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Supreme Court, U.S.
FILED

NO. 98-511 JUL 22 1998

OFFICE OF THE CLERK

In The

**SUPREME COURT OF THE UNITED STATES**

OCTOBER TERM, 1998

Aubrey Ray Vaughan, Petitioner

v.

The State Of Texas, Respondent

**ON PETITION FOR A WRIT OF CERTIORARI TO THE NACOGDOCHES COURT OF LAW OF NACOGDOCHES COUNTY, TEXAS**

# PETITION FOR A WRIT OF CERTIORARI

Aubrey Ray Vaughan
in pro proe persona

Aubrey Ray Vaughan
4120 County Road 60
Rosharon, Texas 77583
(281) 369-3721

OCTOBER 1998

19 pp

## QUESTION PRESENTED

Whether the State of Texas, the Nacogdoches Court of Law of Nacogdoches County, Texas and the City of Garrison, Texas has the jurisdiction to require the petitioner to violate his basic rights:

1. of religion as guaranteed by First Amendment of the Constitution of the United States of America, ("free exercise") and 42 USC 2000bb Sec. 3 (b) (1) (c), "least restrictive means", by requiring the petitioner to provide a Social Security Number to obtain a Texas Driver's License, the Social Security Act, 42 USC 405 (c) (2) (C) (I); the Family Code, Sec.231.302 (c) (1),

2. to travel (protected by the Fifth Amendment)by requiring the petitioner to obtain a Texas Driver's License (the Texas Driver's License Statue of 1935, Sec. 17 "right to drive") in order to drive on the streets and highways while preaching the gospel of the Lord Jesus Christ,

3. to privacy ( the Fourth and Fifth Amendments) by coercing(under threat of jail) the petitioner to sign a citation against his will,

4. to a fair and impartial jury of peers ( Sixth and Seventh Amendments)by not allowing the jury to rule on the law as well as the facts and by not having an all male jury,

## PARTIES TO THE PROCEEDINGS

Petitioner Aubrey Ray Vaughan is an Ambassador of the Lord Jesus Christ in the Ecclesiastical jurisdiction of the Kingdom of God, called, ordained and appointed to the ecclesiastical office of Pastor at the Church of the Lord Jesus Christ known as the Grace Baptist Church.

Respondent is The State of Texas, one of the several States of the continental united States of America.

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# IN THE SUPREME COURT OF THE UNITED STATES

## OCTOBER TERM, 1998

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Aubrey Ray Vaughan, Petitioner,

v.

The State of Texas, Respondent

---

## PETITION FOR A WRIT OF CERTIORARI TO THE NACOGDOCHES COURT OF LAW OF NACOGDOCHES COUNTY, TEXAS

---

Aubrey Ray Vaughan respectfully petitions for a writ of certiorari to review the judgment of the Nacogdoches Court of Law of Nacogdoches County, Texas in this case.

## OPINIONS BELOW

The opinion of the Criminal Court of Appeals Case No. 0261-98 is unreported The opinion in the Court of Appeals Twelfth Judicial District Tyler, Texas Case No. 12-97-00255-CR is unreported. The opinion of the Nacogdoches Court of Law of Nacogdoches County, Texas Case No. Tr. Ct. No. 62-97 is unreported.

## JURISDICTION

The Criminal Court of Appeals entered its judgment on April

23,1998. The jurisdiction of this court is invoked under 28 U.S.C. } 1257 (a).

## STATUTORY PROVISION INVOLVED

The First Amendment guarantees the petitioner's God given rights to freely exercise his religious beliefs. The Fourth Amendment guarantees the petitioner's right to privacy and the Fifth Amendment due process guarantees the petitioner's right to travel. The Sixth, Seventh, and Ninth Amendments guarantees the petitioner's right to an impartial trial by his peers and a reservation of all rights.

## STATEMENT

The jurisdiction of this Court was invoked under 28 U.S.C. }1257 (a) because the State of Texas, the City of Garrison, Texas and the Nacogdoches Court at Law of Nacogdoches County, Texas have exercised jurisdiction over the private person and property of the petitioner after having been advised that they have no jurisdiction in this matter.

### A. The Petitioner

The petitioner is a called, appointed, and ordained preacher of the gospel of the Lord Jesus Christ. The petitioner has been the Pastor of the Grace Baptist Church in Houston, Texas, for the past eighteen years.

The petitioner attempted to renew his Texas Driver's License in October of 1992. He was told at the time by the Texas Department of Public Safety that he would have to provide a Social Security Number in order to renew his License. The petitioner explained that he had a religious objection to the Social Security System including the Social Security Number. The Department denied to issue a License without the Number. The petitioner had developed a

religious conviction to the Social Security System and would not sin by violating the faith through participating with an anti-christ system of numbers. The rule was made "law" in Texas on February 3,1998.

The question presented here is whether the State of Texas has the jurisdiction to detain, inhibit, and deprive a private person of his right to travel (drive) see "personal liberty" 16 C.J.S., Constitutional law, Sect. 202, p. 987; II Am. Jur. (1st) Constitutional Law, Sect.329, p.1135.; KENT V DULLES 357 U.S. 116,125 The petitioner has two adult, married daughters that were never issued a Social Security Number and the State of Texas will create a burden for them when their licenses come up for renewal. see Bates v City of Little Rock, 361 US 516,524,80,S. 412,417,4 L.Ed. 2d 480 (Comp . Int.)

**B. Proceedings Below**

On Thursday November 21,1996 the petitioner, by Special appearance ,appeared before the Municipal Court Judge of the City of Garrison, Texas.

The Petitioner did not make a plea but challenged the Jurisdiction of the State of Texas. The judge took jurisdiction and acted as the prosecutor for the State and the judge. No trial by jury was offered to the petitioner and the petitioner was found guilty of operating a motor vehicle without a valid Texas Driver's license.

The petitioner appealed to the Nacogdoches Court at Law of Nacogdoches County, Texas where the petitioner did not make a plea but challenged the Jurisdiction of the State of Texas. The judge took jurisdiction and set a trial by jury denying a trial by judge. The jury was not allowed to rule on the law but was sworn in to uphold the "law" of the State of Texas and later found the Petitioner guilty of operating a motor vehicle without a valid Texas Drivers license. The petitioner was fined $ 400.00 dollars by the jury but the judge commuted the fine to $ 100.00 dollars. The judgment was signed on May 30,1997.

The petitioner made a timely appeal in the Court of

Appeals Twelfth Judicial District Tyler, Texas on September 23,1997. The Court dismissed the Appeal on November 17,1997 because the fine was not over $ 100.00 dollars and stated "..the points of error raised in Appellant's brief do not have as their sole issue 'the constitutionality of the statue or ordinance on which the conviction is based,' we dismiss the appeal for want of jurisdiction."

The petitioner made a timely appeal on December 17,1997 in the Court of Criminal Appeals. The Court refused a discretionary review of the case on April 23,1998. The Court gave no reason for the refusal.

## REASONS FOR GRANTING THE PETITION

The Petitioner is not the only one that is having problems with the requirement of producing a Social Security Number which would violate the teachings of the Lord Jesus Christ.

### I. THE SUPERIOR COURT OF LOS ANGELES IN THE STATE OF CALIFORNIA RULED AGAINST THE REQUIREMENT IN CONFLICT WITH THE TEXAS COURT OF CRIMINAL APPEALS REFUSAL OF DISCRETIONARY REVIEW

Five challenged the Social Security numbers system in California and were ruled in favor of at the Superior Court level in Los Angeles. More States will bring conflicting views which creates a need for this Court to review the question

### II. The Decision of the Court of Appeals is In Error

The Court erred in that it was unwilling to consider the constitutionality of the Family Code, Sec.231.302 (c) (1) which demanded the Social Security Number for a driver's license while being in conflict with the First Amendment. The petitioner has demonstrated his religious objection to the number and the fact that

there is no adequate remedy at law . The petitioner has been caused undue burden to be charged with a crime when there is no adequate remedy at Law. A statue that is in conflict with a constitution is nullified see 16 AM JUR 2d Constitutional Law 256, see also 16 AM JUR 2d 256 supra. "...Moreover, a construction of a statue which brings it in conflict with a constitution will nullify it as effectually as if it had, in express terms, been enacted in conflict therewith."

The Court erred in not reviewing the case since the Common Law duty has been recognized in Texas Appeals Courts see State v. Anderson,26S.W.2d 174, 119 Tex. 110, 69 A.L.R.233. and Manning v. Block 322 S.W. 2d 651, ref. n. r. e. The petitioner has been forced to drive under the Common Law and has made no contracts with the State of Texas and is therefore not under its jurisdiction in the matter of operating a motor vehicle on the highways and roadways in the State. The Common Law duty would be the Least restrictive means for government's compelling interest see 42 U.S.C. 2000bb Sec. 3 (b) (1) (2) (c). In Miller v. U.S., 230 Fed 486,489 " the claim and exercise of a constitutional right cannot be converted into a crime." The petitioner had no other recourse than to appeal to the courts of appeal.

The Court erred in not reviewing the Fourth and Fifth amendments assertion of being coerced by the threat of jail to give out the petitioners private signature while not being under arrest. see Fourth and Fifth Amendment to the Constitution of the United States. The petitioner was compelled to testify against himself by placing the petitioner at the alleged scene of the alleged crime.

The Court erred in not reviewing the injustice done to the petitioner by not allowing the jury to rule on the Law. In conflict with U.S. v. Dougherty, 473 F. 2nd 1133, 1139 1972, "The pages of history shine on instances of the jury's exercise of its prerogative to disregard instructions of the judge...."

The Court erred in not reviewing the petitioner's right to be tried by a jury of his peers. See 1 Timothy 2:12 " But I suffer not a woman to teach nor to usurp authority over the man, But to be in silence" (The Holy Bible KJV) and Sixth Amendment.

## III. THE QUESTION PRESENTED IS IMPORTANT

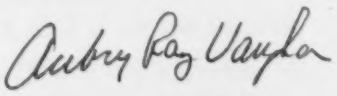
Many other conflicting decisions will be coming from the lower courts especially when the Federal immigration law goes into effect in October of 2000 A.D. mandating all States capture a Social Security Number for all driver's license.

In the interest of justice this case is important because the petitioner has not been allowed to present the truth concerning the law. The writ of certiorari is one of the petitioners hope for justice in this case. Ultimately the God and Father of our Lord Jesus Christ will rule in judgment and justice.

## CONCLUSION

The Petition for a writ of certiorari should be granted.

Respectfully submitted,



Aubrey Ray Vaughan

In Pro Proe Persona

Aubrey Vaughan

4120 CR 60

Rosharon, Texas 77583

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## APPENDIX A - CAUSE NO. 62-97

| | |
|---|---|
| THE STATE OF TEXAS | IN THE COUNTY COURT AT LAW OF |
| vs. | |
| Aubrey Ray Vaughan | NACOGDOCHES COUNTY, TEXAS |

## JUDGMENT & SENTENCE

On this 27th day of May, A.D. 1997, the above numbered and entitled cause was called for trial, when came the State of Texas by the Garrison City Attorney, J.R. Wilson, Jr., and the Defendant, Aubrey Ray Vaughan, appeared in person, having knowingly, intelligently and voluntarily waived the right to representation by counsel and, thereupon, both parties announced ready for trial; and the Defendant failed to enter a plea, the Court entered a not guilty plea to the charge of Operating a Motor Vehicle without a Valid Texas Drivers License - a Class C Misdemeanor, committed on the 12th day of September, 1996, as contained in the Complaint; thereupon a jury, to wit: Kevin Brantley Frizzell and five others, were duly selected, impaneled and sworn, who having heard the Complaint read, heard the evidence submitted and having been duly charged by the Court, retired in charge of the proper officer to consider their verdict; and afterward were brought into open court with the following verdict; which was received by the Court, and is here now entered upon the minutes of the Court, to wit:

We, the jury, find the defendant, Aubrey Ray Vaughan, guilty as charged in the Complaint.

"s/ Kevin Brantly Frizzell"
Foreman of the Jury

Therefore, it is ORDERED, ADJUDGED AND DECREED by the Court that the Defendant, Aubrey Ray Vaughan, is guilty as charged in the Complaint in this cause as found by the jury and his punishment is assessed at a fine of $100.00, $125.00 court cost and all other costs in his behalf incurred.

signed and entered this 30th day of May, 1997.

"s/ J. Jack Yarborough"

Judge, County Court at Law

**APPENDIX B - NO. 12- 97- 00255-CR**

**IN THE COURT OF APPEALS**

**TWELFTH COURT OF APPEALS DISTRICT TYLER, TEXAS**

| | | |
|---|---|---|
| **Aubrey Ray Vaughan** | ) | **APPEAL FROM THE** |
| **APPELLANT** | ) | |
| | ) | **COUNTY COURT** |
| **V.** | ) | **AT LAW** |
| | ) | |
| **THE STATE OF TEXAS** | ) | **NACOGDOCHES** |
| **APPELLEE** | ) | **COUNTY, TEXAS** |

---

**PER CURIAM**

A jury convicted Appellant of the misdemeanor offense of operating a motor vehicle without a valid Texas Driver's License, and it assessed him a $400.00 fine. The trial court, however, lowered the fine to $100.00 before entering judgment. Appellant, acting pro se , appeals from the trial court's judgment raising eight points of error. We will dismiss the appeal for want of jurisdiction.

Article 4.03 of the Texas Code of Criminal Procedure provides as follows in pertinent part:

> The Courts of Appeals shall have jurisdiction coextensive with the limits of their respective districts in all criminal cases except those in which the death penalty has been assessed. This Article shall not be so construed as to embrace any case which has

been appealed from any inferior court to the ...county court at law, in which the fine imposed by the county court at law does not exceed one hundred dollars, unless the sole issue is the constitutionality of the statue or ordinance on which the conviction is based.

TEX. CODE CRIM. PROC. ANN,. art 4.03 ( Vernon Supp. 1997). An examination of Appellant's case in light of article 4.03 shows that Appellant was originally tried and convicted of the above-named offense in the Municipal Court of Garrison, Texas. Following entry of that court's judgment which assessed punishment at a $55.00 fine, Appellant appealed the municipal court's judgment to the County Court at Law of Nacogdoches County. That court thereafter rendered the complained of judgment. Because the fine assessed by the trial court does not exceed $100.00, and the points of error raised in Appellant's brief do not have as their sole issue "the constitutionality of the statue or ordinance on which the conviction is based,"1 we dismiss the appeal for want of jurisdiction. TEX. CODE CRIM. PROC. ANN. art. 4.03 (Vernon Supp. 1997)

Appeal dismissed

Opinion delivered November 17, 1997.

Panel consisted of Ramey, Jr., C. J., Holcomb, J.,and Hadden, J.

DO NOT PUBLISH

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1. It should be noted that this issue was not presented in any of Appellant's points of error.

# APPENDIX B - COURT OF APPEALS

## TWELFTH COURT OF APPEALS DISTRICT OF TEXAS

## JUDGMENT

## NOVEMBER 17, 1997

**NO. 12-97-00255-CR**

**Aubrey Ray Vaughan,**

Appellant

V.

**THE STATE OF TEXAS,**

Appellee

---

Appeal from the County Court at Law of Nacogdoches County, Texas.( Tr. Ct. No. 62-97)

---

THIS CAUSE came to be heard on the appellate record; and the same being inspected, it is the opinion of the Court that this Court is without jurisdiction of the appeal, and that the appeal should be dismissed.

It is therefore ORDERED, ADJUDGED and DECREED by the Court that this appeal be, and the same is, hereby **dismissed for want of jurisdiction;** and that this decision be certified to the court below for observance.

By per curiam opinion.

Panel consisted of Ramey, Jr., C.J., Holcomb, J., and Hadden, J.

## APPENDIX C - COURT OF APPEALS

## TWELFTH COURT OF APPEALS DISTRICT TYLER, TEXAS

February 4, 1008

Mr. Aubrey Ray Vaughan
4120 County Rd 60
Rosharon, Tx 77583

Mr. J.R. Wilson, Jr.
119 North Street
Ste. F
Nacogdoches, Tx. 75961

RE: Court of Appeals Number: 12-97-00255-CR
Trial Court Case Number: 62-97

Style: Vaughan, Aubrey Ray
V.
The State of Texas

You are hereby notified that in the above-described case, the following decision and order was this day made and entered by this court:

"APPELLANT'S Motion for Rehearing having been duly considered, it is **ORDERED** that said motion be, and hereby is, **Overruled.**"

Very truly yours,
Cathy S. Lusk,

Clerk of the Court

By:"s/ Katrina Mc Clenny"

Katrina McClenny,Chief Deputy

APPENDIX D - OFFICIAL NOTICE FROM COURT OF CRIMINAL APPEALS OF TEXAS P.O. BOX 12308, CAPITAL STATION AUSTIN, TEXAS 78711

April 16, 1998

COA#: 12-97-0025-CR

RE: Case No. 0261-98

Style: VAUGHN, AUBREY RAY

ORDER

THE APPELLANT'S PRO SE PETITION FOR DISCRETIONARY REVIEW IS REFUSED.

FILED IN COURT OF APPEALS

12TH COURT OF APPEALS

APRIL 23 1998

TYLER, TEXAS

CATHY S. LUSK, CLERK

(FINAL RULING)

Troy C. Bennet, Jr., Clerk

CATHY LUSK,

CLERK 12TH COURT OF APPEALS

1517 W FRONT ROOM 354

TYLER TEXAS 75702